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Paper No. 9

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OFFICE OF PETITIONS

In re Application of
Greenwood et al.
Application No. 09/834,101
Filed: April 12, 2001
Attorney Docket No. MHG-05

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: DECISION GRANTING PETITION
: UNDER 37 CFR 1.137(f)
:
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This is a decision on the "Petition for Revival of an Application for Patent Abandoned Unintentionally under 37 CFR 1.137(b)," filed June 12, 2003, which is properly treated as a petition to revive the instant nonprovisional application under the unintentional provisions of 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of a corresponding PCT application (No. PCT/US02/10983) filed on April 10, 2002. However, the U.S. Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the foreign or international application¹.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country, or under a multilateral international agreement, that requires publication of applications 18 months after filing.

A petition under 37 CFR 1.137(f) must be accompanied by:

- (1) the reply, which is met by the notification of such filing in a foreign country or under a multinational treaty;
- (2) the petition fee as set forth in 37 CFR 1.17(m); and
- (3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

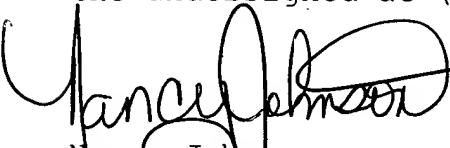
¹ A Rescission of Nonpublication Request was filed on April 18, 2002. However, it was not accompanied by a Notice of Foreign Filing. The mailing of a copy of the PCT notification to the US Receiving Office is not a notification to the Office of the foreign filing within the meaning of 35 U.S.C. 122(b)(2)(B)(iii) or 37 CFR 1.213(c).

The instant petition has been found to be in compliance with 37 CFR 1.137(f). Accordingly, the failure to timely notify the Office of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. 122(b)(2)(B)(i) has been rescinded. The above-identified application was published on October 17, 2002.

The application is being forwarded to Technology Center 1744 for examination in due course.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0309.



Nancy Johnson
Petitions Attorney
Office of Petitions